

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 270

CASE NO. 78-15P

April 12, 1979

Pursuant to notice a public hearing of the D.C. Zoning Commission was held on November 20, 1978. At this hearing session the District of Columbia Zoning Commission considered an application from Joseph and Raphael G. Urciolo and the Riggs National Bank for preliminary approval of a planned unit development and related map amendment from SP-2 to C-3-B.

FINDINGS OF FACT

1. The subject site is located at 3rd, 4th, "E", and "F" Streets, N.W., lots 17-19, 26-28, 34,35 and 806-818 in square 531, comprising approximately 47,960 square feet.
2. The SP-2 District normally permits limited office and apartment use to a maximum floor area ratio of 6.0 for apartment houses or other residential uses, and a 3.5 FAR for hotel or other permitted uses, and a maximum height limit of ninety feet. Under PUD the maximum permitted FAR is 6.0 and the maximum permitted height is 130 feet.
3. The C-3-B District permits a high bulk major business and employment center for office and retail commercial uses, to a maximum floor area ratio of 6.5, and a maximum height limit of ninety feet. Additional height and density may be permitted by the Zoning Commission under the Planned Unit Development process.
4. In the early part of 1978, the Zoning Commission held hearings to consider whether the entire Judiciary Square area including the subject site, should be rezoned from SP to C-3-B. By Order No.216, dated June 8, 1978, the Commission found that it was not appropriate to rezone the entire Judiciary Square, and enumerated several reasons in support of that portion. The Commission did however state the following in that Order:

The Commission determines that the proposal, as presently before the Commission, would not benefit the Judiciary Square area or the city as a whole, and would not be consistent with the preservation of the general welfare. It is however reasonable that development occur in this area, and general office development with controlled retail facilities would be appropriate. It is therefore appropriate for the Commission to entertain individual requests for rezoning of this area under the planned unit development process on a case-by-case basis, where the individual development proposal could be review, and where the Commission could impose requirements for the protection of the area.

5. The property included in this application covers approximately three-fourths of Square 531. The remainder of the square not including in this application is occupied by the Trinity Lutheran Church, two row dwellings and a four story apartment building. The property included in this application is improved by a commercial parking lot and residential development which is in poor physical condition.

6. To the west of the site is Judiciary Square proper, which contains the F Street entrance to the Judiciary Square Metro Station. The majority of Square 530, which lies immediately north of the subject site, is devoted to commercial parking. Immediately south of the subject square is the 4th Street entrance to Judiciary Square and a commercial parking lot.

7. The site is within the area for which a master plan for Judiciary Square was developed in 1971 by the D.C. Department of General Services, and approved by the National Capital Planning Commission. The plan proposed the grouping of government office buildings adjacent to the Square. The Plan proposes that new office buildings be of uniform height, and be set back from Judiciary Square along both 4th and 5th Streets, N.W. The master plans shows an office building for Square 531 with a height of ninety feet and a forty foot set back from 4th Street.

8. The applicant's proposes to construct a general use office building, of which one floor or a maximum of approximately 9,000 square feet of retail space may be provided. The preliminary plans propose an eleven story building with a floor area ratio of 7.0, a gross floor area of approximately 335,440 square

feet, a height of 120 feet and a lot occupancy of approximately seventy-two per cent. Two levels of underground parking are proposed. Parking spaces for 189 cars and twenty-five bicycles are proposed. Entrance to the parking levels is from 3rd Street at the northern end of the building.

9. The Planned Unit Development application and rezoning will increase the maximum permitted floor area ratio of 7.0 and the maximum permitted height of 130 feet. The Height Act of 1910, however, effectively restricts buildings constructed on the Square to a maximum of 120 feet. A change in use would also be permitted by the rezoning. General office and retail uses are permitted as a matter of right in the C-3-B District.

10. The Commission finds that restriction of the proposed development to the limitations of the Judiciary Square plan could effectively prevent development of this site. The Commission finds that the setback of buildings from the Square itself is appropriate. The Commission finds that the height of 120 feet, particularly in view of the space in part created by the setback, would not be inappropriate in this location.

11. Under the proposed planned unit development off-street automobile parking would be provided in accordance with the minimum requirements of the C-3-B District. Furthermore, off-street loading facilities would be provided at the minimum rate required in the C-3-B District.

12. The Municipal Planning Office by report dated November 14, 1978, and by testimony presented at the hearing recommended approval of this application with certain conditions. Of particular concern was the displacement of existing residents in properties included in this application. The Municipal Planning Office stated that approval of this as a PUD would contribute to the revitalization of the Judiciary Square Area, would permit appropriate controls for protecting the historic character of Judiciary Square and would permit retail and general office use in this area where it is not now permitted. MPO noted that the bulk and uses proposed in this application are inconsistent with the guidelines of the Judiciary Square Master Plan but stated that the PUD process would carry out the goals of enhancing the historic and architectural character of Judiciary Square. Conditions as recommended by MPO are listed as follows:

A. The applicant assist tenants who will be displaced by this project in locating suitable housing.

B. An application for a change in zoning from SP-2 to C-3-B accompany the application for final approval of the Planned Unit Development.

C. The maximum height of the building shall not exceed 120'; roof structures shall be limited to a height not to exceed 18'6"; the overall FAR shall not exceed 7.0.

D. The building shall be restricted to office and supporting accessory uses, and that the proposed amount of retail and supporting accessory uses be determined.

MPO also noted that the D.C. Fire Department, the Department of Housing and Community Development and the Superintendent of Public Schools offered no objections to approval of this application. The Department of Environmental Services suggested that on-site storm water management techniques be incorporated into the project.

13. The Department of Transportation, by testimony presented at the hearing stated that no intersection in the vicinity of this project was operating at less than Service Level C and that the adjacent streets have adequate capacity to absorb expected increases in traffic as a result of this project. The Commission so finds. Because of the proximity of the Judiciary Square Metro entrance in the block south of this project, the Department representative recommended a twenty-five percent reduction in the number of parking spaces proposed.

14. The transportation consultant for the applicant testified that all intersections in the immediate vicinity of the site are operating at level of service A with the exception of 3rd and E Streets (level B in the P.M. peak hour) and 3rd and D (level C in the P.M. peak hour). He testified that the projected increase in trips generated by the construction of this building would not change existing service levels. The Commission so finds. A modal split of sixty per cent, auto occupancy of 1.5 persons per car, and 250 gross square feet per employee would result in 1,340 employees requiring 165 parking spaces with seventeen per cent of the total employees arriving by auto. The applicant proposes to provide 189 spaces.

15. There was no report or testimony from ANC-2C in which this property is located. No individual or organization filed as a person or party in opposition to or in support of this application.

16. Mr. Kelly Chatman, Director of Community Family Life Services of the adjacent Trinity Lutheran Church testified in this case expressing concern regarding the displacement of residents living in this square. Mr. Chatman stated that he had met with one of the owners included in this application on two occasions in October of this year. Mr. Chatman testified that the owner stated he was not interested in selling his property and that no guarantees in finding housing or relocation funds for tenants would be provided. Mr. Chatman stated that over 100 people lived in those dwellings on the subject site and that 304 F Street had the most inhabitants. The Commission suggested that Mr. Chatman work with Mr. Jack Samperton the contract purchaser, to aid in possible relocation.

17. Mr. Samperton stated at the hearing that he is committed to an affirmative plan to relocate the existing tenants on the subject site if the Commission granted approval of this application.

18. After the close of the hearing, the Commission received a memorandum of action dated February 1, 1979 from the National Capital Planning Commission regarding the Planning Commission review of the Judiciary Square Master Plan, which the Planning Commission had considered in conjunction with a previous PUD application for property located in the western side of Judiciary Square. The report of the Planning Commission, as it is applicable to this application, specified the following:

- A. The master plan concept of developing the Municipal Center Judiciary Square Area as a District government precinct should be modified to permit a greater mix of office, residential, and retail uses that will create variety and provide services for the concentration of employees in the area.
- B. The master plan requirement for a 40 foot setback along 5th Street and a 38 foot setback along 4th Street should be retained to create visual unity between the park-like setting of Judiciary Square and the office buildings that form the frame around the Square.

- C. The master plan limitation on the height of buildings at 90 feet to the top of the parapet line measured from the top of the curb opposite the building face fronting on Judiciary Square should be continued.
- D. The master plan requirements should be revised to permit floors above the second floor to project a maximum of ten feet over the building setback line to permit greater flexibility, provide the opportunity for more creative facade design, and encourage variation in the line of facades placed uniformly along the setback line.

19. At its meeting held on February 8, 1979, the Zoning Commission discussed the report of the Planning Commission. As to that report, the Zoning Commission finds that it is desirable and appropriate to maintain a uniform cornice height of ninety feet facing directly on Judiciary Square, but that it is not inappropriate to allow a greater height set back from the facade of the square and on sides of the building which do not face the square. The Zoning Commission further finds that it is appropriate to continue the setback from 4th and 5th Street as contained in the original plan. The Zoning Commission further finds that enough building bulk can be accommodated on the site without the ten foot extension into the setback area at the upper floors, that the extension is unnecessary and that it is architecturally and functionally unappealing to allow a building to project into the setback.

20. In order to further assess the question of the height of the building as it relates to the entire Judiciary Square area, the Zoning Commission held a further hearing on that issue on April 5, 1979. At that time, the Zoning Commission reviewed and discussed a model of the entire area prepared by the staff of the Planning Commission. The Zoning Commission received a second Memorandum of Action, dated March 1, 1979 from the Planning Commission. As it related to this, case, the Planning Commission reported that approval of the PUD with the height limitations allowing a height in excess of ninty feet would adversely effect Judiciary Square and therefore have a negative impact on the interests of the Federal Establishment in the National Capital.

21. The Zoning Commission has previously found that it is not inappropriate to allow a height greater than ninety feet if such height were set back from the front facade of the building. The Commission finds that such a proposal would establish a ninety foot cornice line framing the Square, and would result in a balance of symmetry for the Square by reflecting the action of the Commission in another PUD case for property located on the west side of the Square. The Commission finds that there is no reason not to allow a 120 foot height set back from the Square, as there is no existing building which must be respected to the east, since the area to the east is a wide open area occupied by the freeway.

CONCLUSIONS OF LAW

1. The Planned Unit Development process is an appropriate means of controlling development of the subject site, since control of the use and site plan is essential to insure compatibility with the neighborhood.
2. Approval of the application would be consistent with the purpose of the Zoning Act, "to promote such distribution of land uses as would tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity and recreational, educational and cultural opportunities, and as would tend to further economy and efficiency of supply of public services".
3. The approval of the application would promote orderly development in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
4. The proposed application can be approved with conditions which would insure that development would not have an adverse effect on the surrounding area.

DECISION

The Commission notes that in the consideration of this case, the Commission has also had before it a Planned Unit Development application for property located on the west side of Judiciary Square. In reviewing both cases, the Commission has therefore looked at the entire Judiciary Square area, and has arrived at

a decision which sets a uniform framing for design of buildings around the Square. The Commission notes however, that each case must be decided on the specific set of facts surrounding that property, that no two properties are identical and therefore that the decision in regard to this application cannot automatically serve as a precedent for other properties in the Judiciary Square area.


In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission hereby ORDERS APPROVAL of the preliminary application for a Planned Unit Development, for lots 17,18,19,26,27,28,34,35 and 806-818 in square 531, located at 3rd, 4th, "E" and "F" Streets, N.W., subject to the following guidelines, conditions and standards:

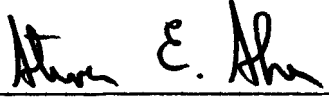
1. An application for a change in zoning from SP-2 to C-3-B shall accompany the application for final approval of the planned unit development.
2. The overall FAR for the project shall not exceed 7.0.
3. The height of the building shall not exceed ninety feet at the front facade of the building as it faces Judiciary Square, which facade shall be set back thirty-eight feet, from the street line. Above the ninety-foot height, the building shall not project above a line drawn at a forty-five degree angle from the parapet of the front facade of the building, provided that the maximum height permitted shall be 120 feet. Roof structures may exceed the 120 foot limit, but shall not exceed eighteen feet, six inches in height above the roof upon which they are located, and further shall be set back from all edges of the roof upon which they are located a distance equal to one foot for each foot of height above the level of the roof upon which they are located.
4. The use of the building shall be restricted to office and supporting accessory uses, and retail space and supporting accessory uses, provided that no such retail uses shall be visible from the exterior of the building on 4th Street, N.W., that there be no signs on the 4th Street frontage advertising the presence of the retail uses, and that there be no direct access to the retail uses from the exterior of the building on 4th Street.
5. In regard to the first floor retail frontage of 4th Street:

- a. There shall be no display of goods or services associated with such retail uses.
 - b. There shall be a maximum of fifty square feet of non-opaque glass area in each bay of the building.
 - c. Any non-opaque glass shall be tinted to minimize passage of light through such glass.
6. In regard to the first floor retail frontage on "F" Street:
 - a. Conditions b and c of Item No. 5 above shall apply to the facade.
 - b. Access to the retail uses in the arcade on the "F" Street side of the building shall be permitted from the arcade, provided that no such access shall be permitted in the bay closest to 4th Street.
 - c. Signs will be permitted in the "F" Street arcade, provided that the signs are located flat against the interior wall of the arcade, are back lighted and match the finish of the building.
7. Off-street automobile parking shall be provided in accordance with the minimum requirements of the C-3-B District and shall be computed in accordance with the gross floor area devoted to individual uses in the building.
8. Off-street loading facilities shall be provided at the minimum rate required in the C-3-B District.
9. Vehicular access to parking and loading areas shall be by way of 3rd Street, N.W.
10. ~~Pedestrian access to the retail levels of the buildings~~ shall be provided from 3rd Street, N.W., and may be from the interior of the building.
11. A convenient and secure parking area for a minimum of twenty-five bicycles shall be provided.

12. The building shall be set back thirty-eight feet from the 4th Street property line. The applicant may wish to respond to the set back requirements of the Judiciary Square Master Plan in a number of ways including creation of a court or plaza area or other appropriate alternatives. A detail landscaping plan shall be submitted by the applicant which shows the use and treatment of this setback area.
13. The applicant shall provide facilities for storm water retention on the roof of the building which meet the requirements of the Department of Environmental Services.
14. The design of the exterior facade and the materials of the building shall be in accordance with the requirements of the Municipal Center-Judiciary Square Master Plan.

Vote of the Commission taken at the public meeting of February 8, 1979: 4-0 (Walter B. Lewis, John G. Parsons, Theodore F. Mariani, and George M. White, to approve with conditions - Ruby B. McZier, not voting, not having been present at the hearing on November 20, 1979)


RUBY B. MCZIER
Chairperson
Zoning Commission


STEVEN E. SHER
Executive Director
Zoning Secretariat

This order was adopted by the Zoning Commission at its public meeting held on April 12, 1979 by a vote of 3-2 (Theodore F. Mariani, George M. White and Ruby B. McZier to adopt, Walter B. Lewis opposed, John G. Parsons opposed by proxy)

In accordance with Section 2.61 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, This order is final on 15 MAY 1979.